

REMARKS:

The Office action mailed August 26, 2002 has been received and carefully considered. Reconsideration of the application as amended hereby is respectfully requested.

The drawings were objected to for failing to include reference numerals 12, 32 and 42. A set of corrected drawings including numerals 12 and 32 is submitted herewith along with a copy of the original drawings with the amended changes noted in red. Numeral 42 was a typographical error in the specification and is otherwise corrected. All changes made to the drawings find full support in the original application and no new subject matter is submitted herewith.

The Abstract was objected to. None of the reasons cited for objecting to an abstract appear to apply to the present case, so this objection is not understood and no changes have been made.

The specification was objected to for various reasons. Amendments have been made to correct the noted informalities and the typographical mistake indicated above with respect to numeral 42. However, the objection to the word radially which is used as an adverb and not an adjective on line 19, page 10 is not understood and no change has been made there. It is noted that a paragraph has been added to indicated that the thread 1 may be

continuous or discontinuous and this is urged to find full support in Claim 11 which was part of the original specification and is not new matter. Further, the other changes to the specification find full support in the original application and do not include new matter.

The Information Disclosure Statement was indicated to not comply with Rule 98(a)(3). A supplemental Statement is submitted under Rule 97(c)(2).

Claim 26 was objected to due to a typographical error which is corrected herein.

Claim 11 was rejected under 35 USC 112. Claim 11 has been amended to depend from Claim 9 to correct this problem.

Claims 13 to 16 were rejected as being indefinite for use of the term rod-like. This rejection is not understood as the adjective refers to an environmental structure, but modification to the word rod is believed to resolve the question raised. Claim 20 was rejected as indefinite as there was no antecedent basis for the word "implant" in line 1. The word implant in Claim 20 was a typographical error and has been amended to "thread".

Claims 1 to 7, 11, 12, 19 to 20 and 22 to 26 were rejected under 35 USC 102(b) as being anticipated by Reed. It is

acknowledged that the Reed reference does show a device with a reverse angle thread. However, the Reed device is a connector apparatus for repairing cracks. The present invention is directed to a closure plug for a medical implant bone screw that receives a rod against which the closure plug biases and which has a pair of spaced arms that are threaded and into which the closure plug threads. It is urged that the Reed device does not teach use of the reverse angle thread on a closure plug as claimed. In particular, the closure plug of the present invention is directed to a plug that pushes down or bias against a rod which in turn creates outward directed forces against the arms, when normal V threads are used, which splays the arms. The reverse threads when used with the present invention allow pressure to be exerted against a rod by the closure while resisting splaying of the arms. This concept is not found in or taught by Reed. It is specifically noted that Reed does not anticipate the present invention because Reed is directed to a connector not to a closure of the type claimed. The claims have been amended to better illustrate the difference with respect to Reed. Consequently, it is urged that Reed does not anticipate the claims of the present application.

Claims 1 to 10 and 12 to 21 were rejected under 35 USC

102(e) as anticipated by Morrison. Applicant Roger P. Jackson conceived of the present invention substantially prior to the filing of the Morrison application and then reduced the invention to practice in the United States with due diligence in view of the state of technology needed to produce the invention. Dr. Jackson's Declaration to this effect under Rule 131 is enclosed. Consequently, it is urged that the Morrison patent should be removed as a prior art reference with respect to the claims of the present application.

Furthermore, Dr. Jackson believes that he not only invented the subject matter of the original claims of the present application prior to the filing of the Morrison patent, but invented the entire subject matter prior to any invention by the inventors listed on the Morrison patent and/or was the inventor in fact of the invention described in the Morrison patent. In particular, Dr. Jackson disclosed his invention to engineers for the assignee of the Morrison patent who were working in his office for over a year while they developed his concept for a spinal implant system that eventually became known as the Liberty Spinal Implant System. Although the present invention did not become part of the Liberty System, these engineers reviewed Dr. Jackson's concept which is described and claimed in the present

application and indicated that Sofamor, which is now known by other names, was not interested in the invention. Consequently, the claims of the Morrison patent have been incorporated herein for the purpose of initiating an interference proceeding with respect to those claims.

In summary, it is believed that the objections raised in the Office action have been resolved. Further, it is urged that Claims 1 to 26 are allowable over the art of record.

In view of the complexity of this application, the Examiner is invited to contact the undersigned by telephone, prior to further action to determine if prosecution can be streamlined thereby.

Respectfully Submitted,



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